

UNITED STATES DISTRICT COURT
FOR THE
WESTERN DISTRICT OF WISCONSIN

TRENTON SCHEIBE,

Plaintiff,

v.

Case No. 05-C-180-C

NATIONAL BOARD OF MEDICAL EXAMINERS,

Defendant.

**DEFENDANT NATIONAL BOARD OF MEDICAL EXAMINERS'
NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT**

TO: Trenton J. Scheibe
1089 East Fremont Drive
Tempe AZ, 85282

Plaintiff

Please take notice that Defendant National Board of Medical Examiners, by its attorneys, Melli, Walker, Pease & Ruhly, S.C., hereby moves the Court for summary judgment in its favor, pursuant to Rule 56 of the Federal Rules of Civil Procedure, on the following grounds:

1. The undisputed material facts establish that Plaintiff is not disabled within the meaning of the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12101 *et seq.*
2. The undisputed material facts establish that Defendant did not violate Title III of the ADA when it declined to extend Plaintiff test accommodations for Steps 1 and 2 of the United States Medical Licensing Examination (“USMLE”).
3. There is no current case or controversy. Plaintiff is not entitled to relief for alleged past violations of Title III of the ADA, 42 U.S.C. §§ 12188 & 12189, and Plaintiff has passed

Steps 1 and 2 of the USMLE. Plaintiff has not registered for nor requested an accommodation for Step 3 of the USMLE, and Defendant would not be the decision maker with respect to an accommodation for Step 3, if an accommodation were requested.

As such, Defendant National Board of Medical Examiners is entitled to summary judgment as a matter of law dismissing Plaintiff's claims in their entirety, and requests an award of its costs and such further relief as the Court deems proper.

Dated this 12th day of January, 2006.



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State Bar No. 1017265
Michael P. Gallagher
State Bar No. 1047771
Melli, Walker, Pease & Ruhly, S.C.
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Attorneys for Defendant National Board of
Medical Examiners

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AFFIDAVIT OF SERVICE

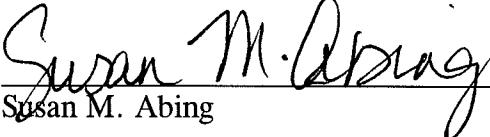
STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Susan M. Abing, being first duly sworn on oath, deposes and says that she sent by first class mail, postage prepaid, on the 7th day of February, 2006, copies of the following documents in the captioned matter:

1. Defendant National Board of Medical Examiners' Notice of Motion and Motion for Summary Judgment;
2. Defendant National Board of Medical Examiners' Proposed Findings of Fact;
3. Defendant National Board of Medical Examiners' Brief in Support of Motion for Summary Judgment;
4. Affidavit of Joseph Abram Doane;
5. Affidavit of Steven G. Zecker, Ph.D.; and
6. Affidavit of Samuel O. Ortiz, Ph.D.

to:

Trenton Scheibe
750 E. Northern Ave., Apt. 1010
Phoenix, AZ 85020



Susan M. Abing

Subscribed and sworn to before me
this 7th day of February, 2006.



Notary Public, State of Wisconsin
My commission is permanent.